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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,241	10/31/2003	Hans-Juergen Fluck	32860-000639/US	9045
30596 7590 09/14/2007 HARNESSE, DICKEY & PIERCE, P.L.C. P.O.BOX 8910 RESTON, VA 20195			EXAMINER NGUYEN, QUANG N	
			ART UNIT: 2141	PAPER NUMBER
			MAIL DATE 09/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/697,241

Applicant(s)

FLUCK ET AL.

Examiner

Quang N. Nguyen

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003 and 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20031031.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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Detailed Action

1. This Office Action is responsive to the Application SN 10/697,241 filed on 10/31/2003. Claims 1-29 are presented for examination.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 10/31/2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 29 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

6. As to claim 29, it appears that claim 29 would reasonably be interpreted by one of ordinary skill as a system of "software per se", failing to fall within a statutory category of invention. Applicant's disclosure contains no explicit and deliberate definition for the term "means", and in the context of the disclosure and claims in question, one of ordinary skill would reasonably interpret the "means" as software applications. As such, the system of "means" alone is not a machine, and it is clearly not a process, manufacture nor composition of matter. Thus, the claims are not limited to statutory subject matter and are therefore nonstatutory.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. **Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Steen et al. (WO 00/62136), hereinafter "Steen".**

9. As to claim 1, **Steen** teaches a method for asynchronously transferring at least one message signal from a server computer to at least one client computer, comprising:

assigning the at least one message signal, when the at least one message signal appears on the server computer, at least one further message signal (*the CRON 504 takes the incoming messages and updates the database 506, then further sends messages to the user's pager service or other notification device*) (**Steen, page 13, lines 17-19**); writing the at least one further message signal to at least one pipe of the server computer (*inherently, applications on a computer system communicate with each*

other via pipe/bus); transmitting the at least one further message signal, via the at least one pipe, to at least one servlet of the server computer (*the system is accessed through a web site having multiple display pages, wherein the display pages are accessed and displayed through the use of the servlet*) (**Steen, page 3, lines 13-15**); and transferring the at least one further message signal from the at least one servlet to the client computer via a connection (*the system provider can then notify the user through the use of a pager, cell phone, or other notification means*) (**Steen, page 3, lines 7-15 and col. 13, lines 17-19**).

10. As to claim 2, **Steen** teaches the method as claimed in claim 1, wherein the client computer includes at least one communication software program, the method including using the at least one communication software program to set up the connection to the servlet and to execute an audio program of the server computer and associated with the at least one further message signal, on the client computer (**Steen, page 3, lines 13-22 and page 6, line 23 – page 7, line 10**).

11. As to claim 3, **Steen** teaches the method as claimed in claim 1, wherein a connection from the client computer to the server computer is set up only when needed (*based upon a user define schedule and/or upon user request*) (**Steen, page 3, line 23 – page 4, line 3**).

12. As to claim 4, **Steen** teaches the method as claimed in claim 1, wherein, while the client computer is connected to the server computer, a first access operation by the client computer to the server computer prompts a communication program of the servlet to start, and further access operations by the client computer to the server computer prompt monitoring of whether the communication program is currently running (**Steen, page 2, lines 12-18 and page 3, lines 13-22**).

13. As to claims 5-6, **Steen** teaches the method as claimed in claim 4, wherein the communication program is used to transmit an identification information item for the pipe to the servlet, wherein the identification information item includes at least one of a descriptor and a software address for the pipe (*by clicking on the name field, or any object relating to that particular CFU*) (**Steen, page 7, lines 17-18 and col. 11, lines 14-17**).

14. As to claim 7, **Steen** teaches the method as claimed in claim 1, wherein the connection includes a transfer channel, including at least part of at least one of the Internet and an intranet (**Steen, page 10, lines 3-21**).

15. Claims 8-13 are corresponding apparatus claims of method claims 1-2 and 4-7; therefore, they are rejected under the same rationale.

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16. As to claims 14-17 and 24, these claims depend on method claim 2 and contain similar limitations as method claims 3-7; therefore, they are rejected under the same rationale.

17. As to claims 18-20, these claims depend on method claim 3 and contain similar limitation as method claims 4-6; therefore, they are rejected under the same rationale.

18. As to claims 21-23, these claims depend on method claim 14 and contain similar limitation as method claims 4-6; therefore, they are rejected under the same rationale.

19. As to claims 25-27, these claims are corresponding apparatus claims of method claims 4-6; therefore, they are rejected under the same rationale.

20. Claim 28 is a corresponding server claim of method claim 1; therefore, it is rejected under the same rationale.

21. Claim 29 is a corresponding apparatus comprising means claim of method claim 1; therefore, it is rejected under the same rationale.

22. Further references of interest are cited on Form PTO-892, which is an attachment to this Office Action.

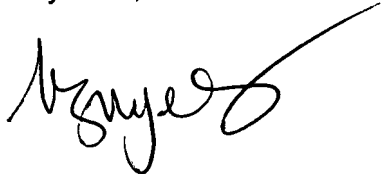
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23. A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Quang N. Nguyen
Patent Examiner – AU 2141
September 11th, 2007